



Development Appeals Board  
Appeal Hearing

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING  
APPEAL NO. 03-21 PERTAINING TO 8 OXFORD BAY, WHITE CITY, SK**

**Panel:** Dennis Gould, Chair  
Bill Wood, Board Member  
Cory Schill, Board Member  
Dale Strudwick, Board Member

**Secretary:** Cassandra Virgin

**Appellant:** [REDACTED] Property Owner

**Respondent:** Chace Kozack, Development Officer, Town of White City

**Introduction:**

- 1) This appeal pertains to a development permit refusal for an addition to the accessory building at 8 Oxford Bay. The development permit application was refused by the Town of White City as the Development Officer does not have the authority to grant a variance to *The Zoning Bylaw*. The Appellant is requesting the Development Appeals Board (Board) overturn the Development Officer's refusal and direct the issuance of a development permit.
- 2) The Appellant is requesting a relaxation of the side yard setback from 2.5m to 0.76m. The relaxation requested is 70%.
- 3) Per subsection 221(d) of *The Planning and Development Act, 2007*, the Board may allow the appeal, allow the appeal with conditions, vary or refuse the appeal.
- 4) There is only one violation of *The Zoning Bylaw* restrictions in this case. The Board cannot make a decision for this request that:
  - a. would create a special privilege;
  - b. is injurious to neighbouring properties; or
  - c. defeats the intent and purpose of *The Zoning Bylaw*.
- 5) Notice of this appeal has been provided to property owners within a 75 metre radius of the subject property to allow them the opportunity to assess whether they will be injuriously affected by the proposed zoning variance, there was only one response received and that person supported the development.

**Appellant's Position:**

- 6) The Appellant indicated the 0.5m side yard relaxation permitted following Appeal No. 01-21, is no longer adequate as the adjoining property owners are in the process of erecting a solid fence

on the property line which now makes it much more difficult to access the accessory building and will prohibit the Appellant from backing his boat into the garage.

- 7) The Appellant is asking for the side yard relaxation to be increased to 1.74m, leaving a setback of 0.76m. This requested amount would be a 70% relaxation of the setback requirements.
- 8) The Appellant indicated the owner at 15 Oxford Bay has a building right up to the property line. Due to this, the Appellant wants to be able to build his garage closer to the property line, similar to the neighbour at 15 Oxford Bay. The Appellant stated that the Board allowed his neighbour a relaxation of 1.5m into the 2.5m side yard setback and feels his situation warrants the same relaxation.

**Respondent's Position:**

- 9) The Respondent does not have the authority to approve any minor variance or approve a permit that does not comply with *The Zoning Bylaw*.
- 10) The Respondent indicated the accessory building at 15 Oxford Bay was an appeal in 2014. In that appeal, the Board ruled in favour due to the unique circumstances and characteristics of the lot rather than the development itself. 15 Oxford Bay is a five-sided lot with easements on three sides.

**Issues:**

- 11) During the hearing held on August 24, 2021, the Appellant raised two significant issues:
  - 1) The neighbour adjacent to where the Appellant intended to build the building, is in the process of erecting a solid fence on the property line, which now makes it much more difficult to access the accessory building with the allowed 0.5m side yard relaxation.
  - 2) The second point raised was in regard to the accessory building at 15 Oxford Bay that was built 1.0m from the property line. The Appellant stated that as the Board allowed the property owner at 15 Oxford Bay a relaxation of 1.5m into the 2.5m side yard setback his situation warrants the same relaxation.
  - 3) The basis of the Board's relaxation in the 15 Oxford Bay case were not presented during the hearing, but during deliberations the Secretary provided the Board with the particulars of that appeal. The Board's review of that appeal decision made by the Board for the Appellant's neighbour at 15 Oxford Bay, is summarized below:
    - The property owner of 15 Oxford Bay filed an appeal in 2014 pointing out that if he could build an accessory building 10.5m behind the house, the side yard setback required would be 1.0m. But due to the irregular shape of their lot and the many setback and utility easements, he was asking for that 10.5m requirement to be relaxed which would allow him to build closer to the house with the 1.0m setback.

- 4) Significant circumstances of the decision for 15 Oxford Bay are as follows:
    - 15 Oxford Bay is an irregular five-sided lot, narrow at the front and the back yard is pointed coming to a nearly “90 degree angle” at the back.
    - There are utility and easement constraints on all sides. The front yard has a normal front yard setback, three sides have sewer or utility easements, and the 5th side is where the property owner wanted to build the accessory building.
    - One other restriction is the natural gas line running from the corner of the house through the back yard. Due to this gas line, [REDACTED] needed to move the building closer to the property line leaving only 1.0m space from the side property line to the garage.
    - The Board allowed this relaxation request due to the “numerous constraints” involved in this particular case, i.e. very odd shaped lot, numerous easements and the gas line positioning, all beyond the homeowners control.
  - 5) The circumstances of the case for 15 Oxford Bay are significantly different than the circumstances at 8 Oxford Bay and are therefore not being considered as relevant to this case.
- 12) In connection to Appeal No. 03-21, the Board held a hearing in June 2021 to hear the Appellant’s case for Appeal No. 01-21. The significant circumstances heard during that hearing were:
- 1) The Appellant wants to build an accessory building in the back yard but needs to build it 0.5m into the side yard setback, in order to have room to back a boat past the side of the house and make the angle into the garage.
  - 2) By moving the structure 0.5m into the side yard setback, there would be sufficient room to access the building. This 0.5m relaxation amounts to a 20% relaxation request.
  - 3) There presently is an air conditioning unit on the side of the house, but that will be moved to the rear of the home to allow a bit more space to back in the boat.
  - 4) There is also a gas meter on that side of the house but the owner doesn’t think that will be a significant obstruction.
  - 5) There is no option to change the building access door to the rear of the lot, because there is a drainage ditch immediately behind the property, and the school parking lot is adjacent to the ditch.
- 13) The Board’s decision in Appeal 01-21 was to permit the requested side yard relaxation of 0.5m



*Would issuing a development permit grant the Appellant a special privilege in comparison to their neighbours?*

- 14) The Board does recognize the difficulty homeowners have on smaller lots trying to position structures with the limited space available. However, during general discussion the Board indicated that they were not prepared to grant this requested relaxation of 1.74m as it is excessive and the Board would not allow this amount to others in this zone with similar circumstances, as it would constitute a special privilege.
- 15) Therefore, the proposed development would constitute a special privilege.

*Would issuing a development permit defeat the intent of the Zoning Bylaw?*

- 16) In its documentation the Town provided the intent of the bylaw. The Board considers the requested relaxation to be excessive for Zone R4 and are not prepared to approve this one due to the circumstances in this case and would therefore defeat the intent of the bylaw.
- 17) Therefore, the proposed development does defeat the intent of *The Zoning Bylaw*.

*Would issuing a development permit cause injury to neighbouring properties?*

- 18) There was no “injurious affection” to neighbouring properties. Two adjacent homeowners indicated their support for the development.
- 19) Therefore, the proposed development would not cause injury to neighbouring properties.

*It is important to point out key circumstances of this application:*

**Conclusion:**

The Board finds that allowing the appeal:

- a. Would give a Special Privilege.
- b. Would defeat the intent of *The Zoning Bylaw*.
- c. Would not negatively impact neighbouring properties.

For reasons “a.” and “b.” stated above, the appeal is denied.

**Motion:**

- **STRUDWICK/SCHILL:** Motion to deny appeal for side yard setback of 1.74m.

**CARRIED**



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**Dennis Gould, Board Chair**